



## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

**[Docket No. NHTSA – 2014--0128]**

#### **Notice of Buy America Waiver**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice of Buy America waiver.

**SUMMARY:** This notice provides NHTSA's finding that a waiver of the Buy America requirements is appropriate for the purchase of Nania Baby Ride infant car seats by the Maryland Highway Safety Office (MHSO), using Federal grant funds. NHTSA finds that a non-availability waiver of the Buy America requirements is appropriate for the purchase of these infant car seats using Federal highway safety grant funds because there are no suitable products produced in the United States.

**DATES:** The effective date of this waiver is **[INSERT DATE 10 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Written comments regarding this notice may be submitted to NHTSA and must be received on or before: **[INSERT DATE 10 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Written comments may be submitted using any one of the following methods:

- **Mail:** Docket Management Facility, M-30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12-140, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590.
- **Fax:** Written comments may be faxed to (202) 493-2251.

- **Internet:** To submit comments electronically, go to the Federal regulations website at <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Hand Delivery:** West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., between 9 am and 5 pm Eastern Time, Monday through Friday, except Federal holidays.

Instructions: All comments submitted in relation to this waiver must include the agency name and docket number. Please note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. You may also call the Docket at 202-366-9324.

#### **FOR FURTHER INFORMATION CONTACT:**

For program issues, contact Barbara Sauers, Office of Regional Operations and Program Delivery, NHTSA (phone: 202-366-0144). For legal issues, contact Andrew DiMarsico, Office of Chief Counsel, NHTSA (phone: 202-366-5263). You may send mail to these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590.

#### **SUPPLEMENTARY INFORMATION:**

This notice provides NHTSA's finding that a waiver of the Buy America requirements, 23 U.S.C. 313, is appropriate for the Maryland Highway Safety Office (MHSO) to purchase Nania Baby Ride infant car seats, Model No. 378099, using grant funds authorized under 23 U.S.C. § 402 (section 402). Section 402 funds are available for use by State Highway Safety Programs that, among other things, encourage the proper use of occupant protection devices, including child restraint systems. 23 U.S.C. 402(a).

Buy America provides that NHTSA “shall not obligate any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or [Title 23] and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States.” 23 U.S.C. 313. However, NHTSA may waive those requirements if “(1) their application would be inconsistent with the public interest; (2) such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.” 23 U.S.C. 313(b). In this instance, NHTSA has determined that a waiver is appropriate for the purchase of Nania Baby Ride child seats because there is no comparable product produced domestically that meets the need identified by MHSO – specifically, the transport of low birth weight infants under four pounds.

MHSO seeks a waiver for one of its grantees, the Maryland Department of Health and Mental Hygiene, who operates Maryland’s Kids in Safety Seats (KISS) Car Seat Loaner Program, to purchase the Nania Baby Ride car seats. KISS operates several Car Seat Assistance Programs throughout Maryland that work with hospitals to discharge healthy infants less than four pounds. MHSO states that it is a best practice to send healthy, low birth weight infants home in car seats, instead of car beds. This is because car seats are easier to use and install in vehicles, require only one seating position in a vehicle (as opposed to two, depending on the vehicle), and the harness dimensions of car seats are not as limiting as car beds.

The Nania Baby ride model was selected by these programs because it has a birth-to-22-pound weight allowance, which allows for the transport of under-four-pound infants. The model is rear-facing, equipped with low harness slots, a 5-point front harness adjuster that allows an

easy and accurate harness fit for infants less than four pounds. The institutional model, sold through Child Source, retails for approximately \$39.90 per seat. It is considered a manufactured product under Buy America and is produced in France.

NHTSA conducted an assessment of available child restraints and is not aware of a comparable child seat produced in the United States. The Nania Baby Ride is unique in the child seat market because it does not specify a minimum child weight. Rather, it is designed to safely seat children from birth-weight to 22 pounds. NHTSA is aware of only one other car seat, the Combi Navette, which is designed to seat infants under four pounds; however, it appears the Navette is currently manufactured in Japan. Furthermore, all domestically-produced car seats on the market specify a minimum infant weight of at least four pounds. Since a child seat that meets the requirements identified by MHSO is unavailable from a domestic manufacturer, the Buy America waiver is appropriate. NHTSA invites public comment on this conclusion.

In light of the above discussion, and pursuant to 23 U.S.C. 313(b)(2), NHTSA finds that it is appropriate to grant a waiver from the Buy America requirements to MHSO in order to purchase Nania Baby Ride infant car seats. This waiver applies to Maryland and all other States seeking to use section 402 funds to purchase Nania Baby Ride infant car seats for the purposes mentioned herein. These waivers will continue through fiscal year 2015 and will allow the purchase of these items as required by MHSO. Accordingly, this waiver will expire at the conclusion of fiscal year 2015 (September 30, 2015). In accordance with the provisions of Section 117 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy of Users Technical Corrections Act of 2008 (Pub. L. 110-244, 122 Stat. 1572), NHTSA is providing this notice as its finding that a waiver of the Buy America requirements is appropriate. Written comments on this finding may be submitted through any of the methods discussed

above. NHTSA may reconsider this finding if through the comments it learns of and can confirm the existence of a comparable domestically made product to the Nania Baby Ride infant car seat.

This finding should not be construed as an endorsement or approval of the products by NHTSA or the U.S. Department of Transportation. The United States Government does not endorse products or manufacturers.

**Authority:** 23 U.S.C. 313; Pub. L. 110-161.

Issued in Washington, DC under authority delegated in 49 CFR part 1.95

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O. Kevin Vincent,  
Chief Counsel.

Billing Code: 4910-59-P  
(signature page for Notice of Buy America waivers)

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